

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

FILED
U.S. DISTRICT COURT
DISTRICT OF NEBRASKA

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U.S. BANK NATIONAL)
ASSOCIATION, as Trustee,)
successor-in-interest to Bank)
of America, N.A., as Trustee,)
successor to Wells Fargo)
Bank, N.A., as Trustee, for)
the registered holders of)
Wachovia Bank Commercial)
Mortgage Trust, Commercial)
Mortgage Pass-Through)
Certificates, Series 2055-)
C22,)

Plaintiff,)

v.)

DAVID D. GRAF, an individual,)
and CROWN GROUP, INC., a)
South Dakota corporation,)

Defendants.)

OFFICE OF THE CLERK

8:10CV361

MEMORANDUM AND ORDER

This matter is before the Court upon defendant Crown Group, Inc.'s ("Crown Group") motion for continuance of trial date and related dates and request for expedited consideration (Filing No. 67). On October 1, 2010, Omaha Settle Inn Limited Partnership, Lincoln Settle Inn Limited Partnership, CB Settle Inn Limited Partnership, Bellevue Settle Inn Limited Partnership, Altoona Settle Inn Limited Partnership, Kaukauna Lodging, Inc., Grand Forks Lodging Limited Partnership, Grand Forks Settle Inn Limited Partnership, Lincoln Ventures, LLC, and Seward Lodging Builders, Inc. (collectively, "debtors") commenced voluntary petitions for relief in Nebraska, under chapter 11 of the United States Code, 11

U.S.C. §§ 101, et seq. (lead case file number is 10-82870 ("related bankruptcy cases")). As Crown Group provides, there are extensive connections between the instant case and the related bankruptcy cases:

Debtors are the same borrowers identified in plaintiff's amended complaint, divided into loan groups Pool I and Pool II. See Amended Complaint, generally. Plaintiff asserts that David Graf, the other defendant in this case, personally guaranteed most of debtors' loans from plaintiff. *Id.* Plaintiff claims that the amounts owed by the debtors are secured by all or substantially all of debtors' assets, including the hotels, pursuant to ten separate deeds of trust or mortgages. Crown Group provides vital and necessary management services for all of the hotels.

See Crown Group's brief in support of its motion for continuance of trial date and related dates and request for expedited consideration (Filing No. 68 at p. 2-3).

Crown Group requests that this Court modify and amend the Final Progression Order entered on January 12, 2011, to continue the trial date currently scheduled for July 12, 2011 through July 13, 2011 for 90 days from that setting, to allow sufficient time for a Plan to be confirmed in the related bankruptcy cases. In conjunction with this motion, Crown Group also requests the continuance of the pre-trial conference presently scheduled for

June 20, 2011, and the deadlines for various pre-trial submissions under NELR 16.2.

Such a motion may be granted upon a showing of good cause. See Fed. R. Civ. P. 16(b)(4). Crown Group has shown good cause, as the confirmation process in the related bankruptcy cases will have a significant and likely dispositive effect on the present case. Much of plaintiff's case against Crown Group is premised on the management agreements between Crown Group and debtors. Counsel for debtors has advised counsel for Crown Group that they expect to file a Plan and Disclosure Statement by mid-June, 2011 for the related bankruptcy cases. This process should be completed within 90 days. Taking into account that plaintiff is the largest single secured creditor in the related bankruptcy cases, and Crown Group's relationship with and work that it performs for the debtors, confirmation of the Plan will likely aid in the resolution of plaintiff's claims against Crown Group.

IT IS ORDERED:

1. Crown Group's motion for continuance of trial date and related dates and request for expedited consideration (Filing No. 67) is granted.

2. A new trial date, a new pre-trial conference date, and new deadlines for various pre-trial submissions under NELR 16.2 will be ordered in a separate Amended Final Progression Order issued by the Court in accordance with this memorandum and order.

DATED this 14th day of June, 2011.

BY THE COURT:

/s/ Lyle E. Strom

A handwritten signature in black ink, appearing to be "Lyle E. Strom", enclosed within a circular scribble.

LYLE E. STROM, Senior Judge
United States District Court